

**UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA**

BRIAN BECKHORN,

PLAINTIFF,

VS.

SYNCHRONY BANK,

DEFENDANT.

Case No.:

[Removal from the Court of Common
Pleas of Lackawanna County, Case
No.: 20-cv-2517]

NOTICE OF REMOVAL

Defendant Synchrony Bank (“Synchrony”) hereby removes the above-captioned action from the Lackawanna County Court of Common Pleas to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. Removal is warranted under 28 U.S.C. § 1441(a) because this is a civil action over which this Court has original jurisdiction under 28 U.S.C. § 1331. Plaintiff’s cause of action arises under the laws of the United States and Lackawanna County is the county of origin for purposes of removal under 28 U.S.C. § 1441(a).

I. PROCEDURAL BACKGROUND

1. Synchrony is a named defendant in a lawsuit that was filed on June 29, 2020 in the Lackawanna County Court of Common Pleas, captioned *Brian Beckhorn v. Synchrony Bank*, Case No. 20-cv-2517 (hereinafter the “State Court Action”). A copy of the Complaint in the State Court Action is attached as “**Exhibit A.**”

2. On July 6, 2020, Synchrony received a copy of the Complaint in the State Court Action. *See “Exhibit A.”*

3. Synchrony filed this Notice of Removal on August 3, 2020.

4. The removal is timely because it is filed within 30 days of being served with the Claim. *See 28 U.S.C. § 1446(b).*

II. REMOVAL IS PROPER AS THIS CASE INVOLVES A FEDERAL STATUTE

5. Synchrony removes this case on grounds of federal-question jurisdiction pursuant to 28 U.S.C. § 1331.

6. Plaintiff’s Complaint is removable under 28 U.S.C. § 1441 because it originally could have been filed in this Court under 28 U.S.C. § 1331, in that Plaintiff brings a cause of action against Synchrony under the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* Specifically, Plaintiff alleges that “Defendant caused to be made an unknown number of calls to Plaintiff’s cell phone number.” Compl. ¶ 12. Plaintiff further alleges that “the calls made to Plaintiff’s cell phone were made using either an automatic telephone dialing system, as that term is defined in 47 U.S.C. § 227(a)(1), or an artificial or prerecorded voice.” *Id.* ¶ 16.

7. Under 28 U.S.C. § 1331, “[t]he district courts shall have original jurisdiction of all civil actions arising under the...laws...of the United States.” “[A]ny civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed by the defendant or the defendants

to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

8. Pursuant to 28 U.S.C. §§ 84(b) and 1441(a), venue is proper and this case is properly removed to this Court because the United States District Court for the Middle District of Pennsylvania embraces Lackawanna County, where Plaintiff’s action is pending.

9. There are no other cases related to the instant action, and Synchrony has not attempted to remove this case previously.

10. Synchrony is the sole defendant in this case and, as such, the requirements of 28 U.S.C. §§ 1446(b)(2)(a), requiring that all served defendants consent to removal, have been met.

11. Synchrony hereby reserves any and all rights to assert any and all defenses to Plaintiff’s Complaint, including, but not limited to, insufficiency of process, lack of personal jurisdiction, and improper venue.

WHEREFORE, Synchrony Bank, respectfully removes Plaintiff’s action from the Lackawanna County Court of Common Pleas to this Court, pursuant to 28 U.S.C. § 1441, and requests that further proceedings be conducted in this Court as provided by law.

Dated: August 3, 2020

Respectfully submitted,

By: /s/ Jonathan M. Marmo
Jonathan M. Marmo (PA # 312669)
Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Tel: (412) 288-7675
Fax: (412) 288-3063
Attorneys for Defendant Synchrony Bank

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2020, I caused to be electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF filing system, which will serve it on the following counsel of record:

Brett Freeman
Sabatini Law Firm, LLC
216 N. Blakely St.
Dunmore, PA 18512
(570) 341-9000
Brett@SabatiniLawFirm.com

Attorney for Plaintiff Brian Beckhorn

REED SMITH LLP

By: /s/ Jonathan M. Marmo
Jonathan M. Marmo (PA # 312669)
Reed Smith LLP
225 Fifth Avenue
Pittsburgh, PA 15222
Tel: (412) 288-7675
Fax: (412) 288-3063
Attorneys for Defendant Synchrony Bank